

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

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ROBERT ROSE and PAUL SIMI, on
behalf of themselves and
those similarly situated,

Plaintiffs,

v.

CEMEX CONSTRUCTION MATERIALS
PACIFIC, LLC, and DOES 1
through 50,

Defendants.

No. 2:23-cv-01979 WBS AC

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STATUS (PRETRIAL SCHEDULING) ORDER

After reviewing the parties' Joint Status Report, the court hereby vacates the Status (Pretrial Scheduling) Conference scheduled for July 1, 2024, and makes the following findings and orders without needing to consult with the parties any further.

I. SERVICE OF PROCESS

All defendants have been served, and no further service is permitted without leave of court, good cause having been shown

under Federal Rule of Civil Procedure 16(b).

II. JOINDER OF PARTIES/AMENDMENTS

No further joinder of parties or amendments to pleadings will be permitted except with leave of court, good cause having been shown under Federal Rule of Civil Procedure 16(b). See Johnson v. Mammoth Recreations, Inc., 975 F.2d 604 (9th Cir. 1992).

III. JURISDICTION/VENUE

The court has federal question jurisdiction in this putative labor class action pursuant to 28 U.S.C. § 1331, because several of plaintiffs' claims are completely preempted by the Labor Management Relations Act, 29 U.S.C. § 185. See Balcorta v. Twentieth Century-Fox Film Corp., 208 F.3d 1102, 1107 (9th Cir. 2000). Venue is undisputed and hereby found to be proper.

IV. DISCOVERY¹

The parties represent that they served the initial disclosures required by Federal Rule of Civil Procedure 26(a)(1) on April 15, 2024.

The parties shall disclose experts and produce reports in accordance with Federal Rule of Civil Procedure 26(a)(2) by no

¹ The parties requested that the court set a deadline for discovery on the named plaintiffs' individual claims with a further status conference to be held following that discovery to set the remaining dates and deadlines. The court declines to do so, as it concludes that bifurcating class discovery without good reason and delaying the establishment of the case schedule would not be conducive to the efficient administration of justice in this case.

Because the parties have failed to comply with Local Rule 240 in violation of this court's order (see Docket No. 8), the court will select all dates and deadlines without further input from the parties.

1 later than **September 26, 2025**. With regard to expert testimony
2 intended solely for rebuttal, those experts shall be disclosed
3 and reports produced in accordance with Federal Rule of Civil
4 Procedure 26(a)(2) on or before **October 24, 2025**.

5 All discovery, including depositions for preservation
6 of testimony, is left open, save and except that it shall be so
7 conducted as to be completed by **November 21, 2025**. The word
8 "completed" means that all discovery shall have been conducted so
9 that all depositions have been taken and any disputes relevant to
10 discovery shall have been resolved by appropriate order if
11 necessary and, where discovery has been ordered, the order has
12 been obeyed. All motions to compel discovery must be noticed on
13 the magistrate judge's calendar in accordance with the local
14 rules of this court and so that such motions may be heard (and
15 any resulting orders obeyed) not later than **November 21, 2025**.

16 **V. MOTION HEARING SCHEDULE**

17 All motions, except motions for continuances, temporary
18 restraining orders, or other emergency applications, shall be
19 filed on or before **January 30, 2026**. All motions shall be
20 noticed for the next available hearing date. Counsel are
21 cautioned to refer to the local rules regarding the requirements
22 for noticing and opposing such motions on the court's regularly
23 scheduled law and motion calendar.

24 **VI. FINAL PRETRIAL CONFERENCE**

25 The Final Pretrial Conference is set for **April 20,**
26 **2026**, at 1:30 p.m. in Courtroom No. 5. The conference shall be
27 attended by at least one of the attorneys who will conduct the
28 trial for each of the parties and by any unrepresented parties.

Counsel for all parties are to be fully prepared for trial at the time of the Pretrial Conference, with no matters remaining to be accomplished except production of witnesses for oral testimony. Counsel shall file separate pretrial statements, and are referred to Local Rules 281 and 282 relating to the contents of and time for filing those statements. In addition to those subjects listed in Local Rule 281(b), the parties are to provide the court with: (1) a plain, concise statement which identifies every non-discovery motion which has been made to the court, and its resolution; (2) a list of the remaining claims as against each defendant; and (3) the estimated number of trial days.

In providing the plain, concise statements of undisputed facts and disputed factual issues contemplated by Local Rule 281(b) (3)-(4), the parties shall emphasize the claims that remain at issue, and any remaining affirmatively pled defenses thereto. If the case is to be tried to a jury, the parties shall also prepare a succinct statement of the case, which is appropriate for the court to read to the jury.

VII. TRIAL SETTING

The jury trial is set for **June 16, 2026** at 9:00 a.m. The parties have not provided an estimate of the length of trial.

VIII. SETTLEMENT CONFERENCE

A Settlement Conference with a magistrate judge will be set at the time of the Pretrial Conference. Counsel are instructed to have a principal with full settlement authority present at the Settlement Conference or to be fully authorized to settle the matter on any terms. At least seven calendar days


1 before the Settlement Conference counsel for each party shall
2 submit a confidential Settlement Conference Statement for review
3 by the settlement judge. The Settlement Conference Statements
4 shall not be filed and will not otherwise be disclosed to the
5 trial judge.

6 IX. MODIFICATIONS TO SCHEDULING ORDER

7 Any requests to modify the dates or terms of this
8 Scheduling Order, except requests to change the date of the
9 trial, may be heard and decided by the assigned Magistrate Judge.
10 All requests to change the trial date shall be heard and decided
11 only by the undersigned judge.

12 IT IS SO ORDERED.

13 Dated: June 25, 2024

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15 WILLIAM B. SHUBB
16 UNITED STATES DISTRICT JUDGE
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